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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,745

05/09/2006

Bruno Bret

20147 - 434 PCT

5863

31743 7590 07/16/2009
Georgia-Pacific LLC
133 Peachtree Street NE - GA030-41
ATLANTA, GA 30303

EXAMINER

AL-AWADI, DANAH J

ART UNIT

PAPER NUMBER

1615

MAIL DATE

DELIVERY MODE

07/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,745	Applicant(s) BRET ET AL.	
	Examiner DANAH AL-AWADI	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 15-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt is acknowledged of Applicant's remarks filed 06/27/2008. The Examiner acknowledges the following:

Claims 1-14 were previously cancelled.

Claims 15-29 were previously presented.

No amendments have been made.

Thus, claims 15-29 represent all claims currently pending.

INFORMATION DISCLOSURE STATEMENT

No new Information Disclosure Statements (IDS) have been submitted for consideration.

PRIORITY

Application claims priority to PCT/FR2004/002877 and FR Application No. 03 13344. These documents were not considered because English language versions were not provided.

NEW REJECTIONS

In view of applicant's argument, the following rejection has been newly added:

Claim Rejections- 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

Art Unit: 1615

matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-22, 24, and 26-29 are rejected under 35 U.S.C.103(a) as being unpatentable over Bret et al. (US Patent 6146648).

Bret et al. U.S. Patent 6146648 (hereafter '648 patent) teaches a composition that comprises a waxy ester and a fatty alcohol on a fibrous material for use in contacting skin. The purpose of the composition is to make the fibrous material softer. Regarding the fatty acid ester of claim 15 in the instant application, Claim 4 of '648 patent states that the composition was derived from one or more fatty alcohols which have 6 to 24 carbon atoms. Claim 4 further states a waxy ester also derived from saturated linear fatty acids having from 6 to 24 carbon atoms. With respect to the specific range of carbon atoms stated, chapter 2144.05 of MPEP states "In the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists. With respect to the range of the amount of product per surface area, chapter 2144.05 states "Where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation."

With regards to the fibrous material imparting a sense of freshness of pending claim 15, this is treated as intended use and carries little patentable weight.

With regards to the melting temperature of claim 16 of the instant application, Claim 1 of '648 patent states that the composition melts at least 5°C, and therefore the composition also melts at a range from 20°C to 37°C.

Claim 17 of the instant application calls for a composition of at least 40% being selected from solvents, fatty acid esters, fatty alcohols, or mineral oils. Claim 8 (i) of '648 patent teaches that the composition comprises from 0 to 50% of wax or mineral oil.

Claims 18 and 19 of the instant application discuss dodecylic esters. Claim 4 of '648 patent teaches a waxy ester of 6 to 24 carbon atoms. With respect to the specific range of carbon atoms stated, chapter 2144.05 of MPEP states "In the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists." A dodecylic ester is a 12 carbon ester. Furthermore, Paragraph 83 of the brief summary '648 patent teaches lauric acid which is dodecanoic acid. With respect to the percentage, claim 20 part (b) of '648 patent teaches a composition from 5 to 99% wt of an aqueous emollient compound of which is comprised of at least one waxy ester. Furthermore, claim 8 of '648 patent teaches a composition which comprises from 1 to 50% of waxy esters. Dodecylic acid is a waxy ester. With respect to the percentages in the instant claims 17 and 18, chapter 2144.05 of MPEP states that ""Where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation."

Claim 20 of the instant application states the agent is distributed substantially on the surface of the product. Paragraph 1 of the brief summary of '648 patent states that "the lotion is applied or impregnated onto at least on surface..." Impregnated onto is understood to be applied substantial to the surface.

With respect to the range of the amount of product per surface area of claims 21 and 22 of the instant application, chapter 2144.05 of the MPEP states "Where the general conditions of a

Art Unit: 1615

claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.”

With regards to the distribution of the agent in strips parallel to each other in claim 24 of the instant application, Paragraph 131 of the brief description of ‘648 patent discloses a method of depositing lotion in the form of strips.

Claim 26 of the instant application states the agent is distributed over a top surface and a bottom surface of said product. Paragraph 25 of the detailed description of ‘648 patent states that an object of the invention is to provide a paper product which has at least one surface that is coated with an agent, of which is lotion. Therefore, distributing the agent over the top surface and bottom surface is at least one surface.

Claim 27 of the instant application states that the fibrous material comprises absorbent paper. Claim 20 of ‘648 patent teaches absorbent paper product. Absorbent paper is fibrous material.

Claims 28 and 29 of the instant application discuss that the fibrous material comprises absorbent cotton or a bonded web of natural, artificial, or synthetic textile fibers. Claim 20 of ‘648 patent teaches absorbent paper, and absorbent paper is made of up of natural, artificial, or synthetic textile fibers. Cotton or cotton in mixture with artificial or synthetic fibers is an obvious version of absorbent paper. The abstract of ‘648 patent teaches that the composition is used in treating absorbent paper products of which include according to Paragraph 2 of the brief summary, paper products paper products such as handkerchiefs, toilet paper, or any other paper products for wiping the skin. Furthermore, Paragraph 1 of the brief summary of ‘648 patent teaches that the paper product can include a sheet of wadding cotton or tissue paper. Paragraph

Art Unit: 1615

27 of the brief summary of '648 patent teaches an absorbent paper sheet made up of mostly paper fibers and of synthetic fibers or any other equivalent paper product.

Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bret et al. US Patent 6146648 as applied to claims 15-22, 24, and 26-29 above, and further in view of Wegele et al US Patent 6270878.

Claims 23 -26 of the instant application discuss distribution patterns of the agent. US patent 6270878 (hereafter '878 patent) discloses that it is advantageous to have a wipe that has a discontinuous distribution pattern. Paragraph 9 of the brief summary of '878 patent teaches that a continuous pattern of emulsion has been found to not provide the most efficacious cleaning of human skin. It is known in the art that distribution is normally done in a continuous fashion.

With regards to a discontinuous manner, the strips are parallel; it is therefore understood to also be distributed in a discontinuous manner. In regards to claim 26 of the instant application, distribution over a top surface and a bottom surface is also an obvious variant of discontinuous distribution.

The teachings of '648 patent doesn't disclose distribution patterns, however the '878 patent discloses known distribution patterns of emollient, and the claimed distribution patterns of the instant application are obvious variants and do not add patentable weight. It would have been prima facie obvious to combine the teachings of '878 patent with the teachings of '648 patent because '878 patent teaches a composition distribution having the advantage of more efficacious cleaning of human skin.

Art Unit: 1615

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bret et al. US Patent 6146648 as applied to claims 15-22, 24, and 26-29 above, and further in view of Muoio US patent 3965518.

U.S. Patent 3965518 (hereafter '518 patent) discloses the advantage of the continuous application. Paragraph 6 and 7 the brief summary of '518 patent discloses an advantage of continuous distribution in that it provides an even application of product.

The teachings of '648 patent doesn't disclose distribution patterns, however the '518 patent discloses known distribution patterns of emollient, and the claimed distribution patterns of the instant application are obvious variants and do not add patentable weight. It would have been prima facie obvious to combine the teachings of '518 patent with the teachings of '648 patent because '518 patent teaches a composition distribution having the advantage of a more even application of product.

RESPONSE TO ARGUMENTS

Applicant's arguments with regard to the rejection of claims 15-22, 24, and 26-29 under 35 U.S.C.103(a) over Bret et al. US Patent 6,146,648, has been fully considered, but they are not persuasive.

Applicant alleges that Bret et al. US Patent 6,146,648 (hereafter the '648 patent) does not teach or suggest a fibrous material that imparts a sense of freshness where the product contains, in part, at least one fatty acid ester with a C10-C14 carbon chain and a alcohol with a C10-C14 carbon chain, and in fact teaches away from the composition. Furthermore, applicant alleges the

'648 patent describes a softening lotion composition for use in an absorbent paper product whereas the goal of the claimed product is to provide a sense of freshness.

In response, the Examiner respectfully submits that in prior rejection (01/16/2009), the '648 patent does not teach away but simply does not explicitly teach toward in the example cited by applicant. Applicant's argument with regards that the Bret patent does not teach a C10-C14 carbon chain and an alcohol with a C10-C14 is not persuasive because Bret teaches having available C10-C14 alcohol and C10-C14 fatty ester. Regarding applicants argument that Bret only utilizes C16+ fatty alcohols and C24+ waxy esters, examiner would like to point out that 2144.09 (I) of the MPEP states "A prima facie case of obviousness may be made when chemical compounds have very close structural similarities and similar utilities. "An obviousness rejection based on similarity in chemical structure and function entails the motivation of one skilled in the art to make a claimed compound, in the expectation that compounds similar in structure will have similar properties In re Payne" Furthermore, 2144.09 (II) states "Compounds which are position isomers (compounds having the same radicals in physically different positions on the same nucleus) or homologs (compounds differing regularly by the successive addition of the same chemical group, e.g., by -CH₂- groups) are generally of sufficiently close structural similarity that there is a presumed expectation that such compounds possess similar properties In re Wilder."

With regards to applicants argument that the '648 patent describing a softening composition for use in absorbent paper product is not the same goal of the claimed product of the pending claims, which is to provide a sense of freshness, this is intended use which carries little patentable weight.

Applicant's arguments with regard to the rejection of claims 23-25 under 35 U.S.C.103(a) over Bret et al. US Patent 6,146,648 and further in view of Wegele et al. 6,270,878, has been fully considered, but they are not persuasive.

Applicant's arguments with regard to the rejection of claim 25 under 35 U.S.C.103(a) over Bret et al. US Patent 6,146,648 and further in view of Muoio 3,965,518, has been fully considered, but they are not persuasive.

Applicant alleges that Wegele and Muoio do not make up for the deficiencies of Bret.

In response, the Examiner respectfully submits that the response to the deficiencies of Bret was addressed above, and therefore the argument is not found to be persuasive.

CONCLUSION

All claims have been rejected; no claims are allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

CORRESPONDENCE

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danah Al-awadi whose telephone number is (571) 270-7668. The examiner can normally be reached on 9:00 am - 6:00 pm; M-F (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Danah Al-awadi/
Examiner, Art Unit 1615

/MP WOODWARD/
Supervisory Patent Examiner, Art Unit 1615